

CHAPTER 1: GENERAL

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1-1-1 How Code designated and cited

ARTICLE 1-1: HOW CODE DESIGNATED AND CITED

§ 1-1-1 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated “The Code of the City of Sedona, Arizona,” and may be so cited. Such code may also be cited as the “Sedona City Code.”

Section

1-2-1 Construction of ordinances

ARTICLE 1-2: CONSTRUCTION OF ORDINANCES

§ 1-2-1 CONSTRUCTION OF ORDINANCES.

The rules and the definitions set forth in this chapter shall be observed in the construction of this code and the ordinances of the city unless such construction would be inconsistent with either the manifest intent of the Council or the context of this code or the ordinances of the city.

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§ 1-3-1 GENERAL RULE REGARDING DEFINITIONS.

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

§ 1-3-2 ACTS BY AGENTS.

When this code or an ordinance requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

§ 1-3-3 CITY.

Whenever the word “city” is used, it shall mean the City of Sedona, Arizona.

§ 1-3-4 CODE.

The words “the code” or “this code” shall mean “The Code of the City of Sedona, Arizona,” unless the context indicates otherwise.

§ 1-3-5 COUNCIL.

Whenever the word “Council” is used, it shall be construed to mean the Common Council of the City of Sedona, Arizona.

§ 1-3-6 DAY.

A “day” is the period of time between any midnight and the midnight following.

§ 1-3-7 DAYTIME, NIGHTTIME.

“Daytime” is the period of time between sunrise and sunset. “Nighttime” is the period of time between sunset and sunrise.

§ 1-3-8 DEPARTMENT, BOARD, COMMISSION, OFFICE, OFFICER OR EMPLOYEE.

Whenever any “department, board, commission, office, officer or employee” is referred to, it shall mean a department, board, commission, office, officer or employee of the city unless the context clearly indicates otherwise.

§ 1-3-9 GENDER; SINGULAR AND PLURAL.

Words of the masculine gender include the feminine; words in the singular number include the plural and words in the plural number include the singular.

§ 1-3-10 IN THE CITY.

The words “in the city” or “within the city” shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

§ 1-3-11 JOINT AUTHORITY.

All words purporting to give a joint authority to 3 or more city officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

§ 1-3-12 MONTH.

The word “month” shall mean a calendar month.

§ 1-3-13 OATH.

“Oath” includes affirmation or declaration.

§ 1-3-14 OR, AND.

“Or” may be read “and,” and “and” may be read “or,” if the sense requires it.

§ 1-3-15 PERSON.

The word “person” shall extend and be applied to firms, corporations or organizations, as well as to individuals, unless plainly inapplicable.

§ 1-3-16 PERSONAL PROPERTY.

“Personal property” includes every species of property, except real property as defined in this article.

§ 1-3-17 PRECEDING, FOLLOWING.

The words “preceding” and “following” mean next before and next after, respectively.

§ 1-3-18 PROPERTY.

The word “property” shall include real and personal property.

§ 1-3-19 REAL PROPERTY.

“Real property” shall include lands, tenements and hereditaments.

§ 1-3-20 SHALL, MAY.

“Shall” is mandatory and “may” is permissive.

§ 1-3-21 SHALL HAVE BEEN.

The words “shall have been” include past and future cases.

§ 1-3-22 SIGNATURE OR SUBSCRIPTION BY MARK.

“Signature” or “subscription” includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when 2 witnesses so sign their own names thereto.

§ 1-3-23 STATE.

The words “the state” shall be construed to mean the State of Arizona.

§ 1-3-24 TENANT OR OCCUPANT.

The word “tenant” or “occupant” applied to a physical structure or land shall include any person holding a written or an oral lease or who occupies the whole or part of such structure or land, either alone or with others.

§ 1-3-25 TENSES.

The present tense includes the past and future tenses, and the future includes the present.

§ 1-3-26 TIME--COMPUTATION.

The time within which an act is to be done as provided in this code or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or legal holiday it shall be excluded; and when such time is expressed in hours, the whole of Saturday, Sunday or a legal holiday, from midnight to midnight, shall be excluded.

§ 1-3-27 TIME--REASONABLE.

In all cases where any section of this code shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

§ 1-3-28 WEEK.

A “week” consists of 7 consecutive days.

§ 1-3-29 WRITING.

“Writing” includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

§ 1-3-30 YEAR.

The word “year” shall mean a calendar year, except where otherwise provided.

CONFLICTING PROVISIONS

Section

- | | |
|-------|------------------------------------------------------------------------------------------|
| 1-4-1 | ARTICLE 1-4 ARTICLE 1-4. REFERENCE TO CHAPTERS, ARTICLES, OR SECTIONS: |
| 1-4-2 | References to this code |
| 1-4-3 | Conflicting provisions – different chapters |
| 1-4-4 | Conflicting provisions – same chapter |

§ 1-4-1 ADDITIONAL RULES OF CONSTRUCTION.

In addition to the rules of construction specified in Articles 1-2 and 1-3, the rules set forth in this article shall be observed in the construction of this code.

§ 1-4-2 REFERENCES TO THIS CODE.

All references to chapters, articles or sections are to the chapters, articles and sections of this code unless otherwise specified.

§ 1-4-3 CONFLICTING PROVISIONS – DIFFERENT CHAPTERS.

If the provisions of different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter.

§ 1-4-4 CONFLICTING PROVISIONS – SAME CHAPTER.

If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter.

Section

1-5-1 Section headings

ARTICLE 1-5: SECTION HEADINGS

§ 1-5-1 SECTION HEADINGS.

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law.

Section

1-6-1 Effect of repeal

ARTICLE 1-6: EFFECT OF REPEAL

§ 1-6-1 EFFECT OF REPEAL.

When any ordinance repealing a former ordinance, section, paragraph, sentence, clause or phrase shall be itself repealed, such repeal shall not be construed to revive such former ordinance, or any part thereof, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

Section

1-7-1 Severability of parts of Code

ARTICLE 1-7: SEVERABILITY OF PARTS OF CODE

§ 1-7-1 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this code shall be severable, and, if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provisions of the code.

Section

1-8-1 Penalties

ARTICLE 1-8: PENALTIES

§ 1-8-1 PENALTIES.

A. Any person found guilty of violating any provisions of this code, except as otherwise specifically provided, shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2500 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein or by civil sanction.

B. All penalty provisions of existing code provisions or city ordinances which specifically provide for maximum fines of less than \$1000 upon conviction shall remain in effect unchanged by this ordinance.

C. All penalty provisions of existing city ordinances which state that the maximum fine that may be imposed is \$1000 are hereby amended to provide for a maximum fine of \$2500 to read:

Any person found guilty of violating any provision of this ordinance shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2500 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein.

D. Civil citation authority:

1. *Commencement of action.*

a. With the exception of Chapter 11 of this code, in the alternative and in the sole discretion of a peace officer or the code enforcement officer, an action for violation of this code, any amendments hereto or any order or regulation made hereunder and any ordinances, including the failure to act or perform any duty so required, may be commenced by issuance of a civil citation. Each day that any violation continues shall be a separate offense subject to civil sanction or criminal penalty as set forth in this article.

b. The civil citation shall be substantially in the same form and format as the Arizona Traffic Ticket and Complaint standard form and shall direct the defendant to appear in the Sedona Magistrate Court at a time certain. The time for appearance shall be specified on the face of the citation and shall be in compliance with all Sedona Magistrate procedures.

c. The citation shall further notify the defendant that if the defendant fails to appear on or before the date specified in the complaint, a judgment by default shall be entered against the defendant and the court may, in its discretion, impose a civil sanction not to exceed \$250.

d. Service of the citation may be accomplished and shall be deemed proper and complete by any of the following methods:

i. By having the defendant sign the citation with the promise to appear in court on or before the date specified on the face of the citation.

ii. If the defendant refuses to sign the citation, then the officer shall hand-deliver a copy of the citation to the defendant and note on the defendant's copy of the citation the date and time of hand-delivery to the defendant.

iii. By mailing a copy of the citation to the person charged by certified or return receipt requested mail, to the person's last known address.

iv. In the event that service cannot be accomplished as set forth in this paragraph, the defendant may be served by any means contemplated or allowed by the Arizona Rules of Civil Procedure or the Arizona Rules of Practice for the Superior Court.

2. *Authority to issue civil citation.* Any peace officer of the Sedona Police Department may issue a civil citation pursuant to this article. In addition, the code enforcement officer is hereby granted authority to issue a civil citation pursuant to this article.

3. *Appearance by defendant.* The defendant shall appear within the time specified on the face of the citation in person or through the defendant's attorney. Appearance shall be at the Sedona Magistrate Court. At the time of appearance, the defendant shall either admit or deny the allegations contained in the citation. In the event the defendant admits the allegations, the court shall enter judgment against the defendant and, in its discretion, may impose a civil sanction not to exceed \$250 for the violation. If the defendant denies the allegations contained in the citation, the court shall set a date for the trial of the matter.

4. *Default judgment.*

a. If the defendant fails to appear as directed on the citation, the court may enter a default judgment and may, in its discretion, impose a civil sanction not to exceed \$250 for the violation.

b. If the defendant fails to appear for the trial, the defendant's failure to appear shall constitute an admission of the offense and the court shall enter judgment against the defendant and may, in its discretion, impose a civil sanction not to exceed \$250 for the violation.

c. In civil traffic violation cases, upon a failure to appear or failure to pay a civil sanction, the Magistrate Court may assess the defendant a default fee of \$25.

d. A defendant who defaults on his or her obligation for payment of monies owed or due to the Magistrate Court including, but not limited to, restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and fees, is liable for any fees assessed by a collection agency that is licensed pursuant to A.R.S. Title 32, Chapter 9, Article 2, or any successor statute, and is engaged by the Magistrate Court to collect and enforce

such payment. The collection fees and charges shall be added to the sum or sums due from and chargeable against the defendant.

5. *Rules of procedure.* The Arizona Rules of Court for Civil Traffic Violations may be followed by the Sedona Magistrate Court for civil citation proceedings under this article except as modified or where inconsistent with the provisions of this article, local rules, Arizona Revised Statutes or Rules of Court for courts in the State of Arizona.

6. *Collection of civil sanctions.* Any judgment for a civil sanction taken pursuant to this article may be collected as any other civil judgment. Such collection shall be in accordance with the common law of the State of Arizona, Arizona Revised Statutes and all other applicable rules and regulations. Said sanctions are subject to any exemptions contained in the laws of the State of Arizona.

Section

1-9-1 Effective date of repeal

1-9-2 Ordinances ~~Article 1-9~~ **ARTICLE 1-9. REPEAL OF EXISTING ORDINANCES**

§ 1-9-1 EFFECTIVE DATE OF REPEAL.

All ordinances of the city, except those specially exempted in this article, now in force and effect are hereby repealed effective at 12:00 p.m. on the _____ but all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

§ 1-9-2 ORDINANCES EXEMPT FROM REPEAL.

The adoption and enactment of this code shall not be construed to repeal or in any way to modify or affect:

- A. Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning;
- B. Any ordinance making an appropriation;
- C. Any ordinance affecting any bond issue or by which any bond issue may have been authorized;
- D. The running of the statute of limitations in force at the time this code becomes effective;
- E. The continued existence and operation of any department, agency, commission or office heretofore legally established or held;
- F. Any bond of any public officer;
- G. Any taxes, fees, assessments or other charges incurred or imposed;
- H. Any ordinances authorizing, ratifying, confirming, approving or accepting any compact or contract with any other municipality, the State of Arizona or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

Section

1-10-1 Effective date of code

ARTICLE 1-10: EFFECTIVE DATE OF CODE

§ 1-10-1 EFFECTIVE DATE OF CODE.

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after 12:00 p.m. on the _____ except that where a later effective date is provided it shall prevail.

